

From: Glenn Brown
To: Microsoft ATR
Date: 1/14/02 12:31pm
Subject: microsoft settlement

Hello:

One of the central issues promoted by Microsoft (MS) in this case has been to protect their ability to innovate. In my opinion, that issue is a carefully constructed red herring. The critical issue of importance to our competitive system is protection of "everyones ability to innovate and compete". "Everyone" in this current court case includes not only MS, but also their competitors, past, present and future. I believe that the issue of protecting everyones ability to innovate has been under appreciated, at least in part, because the major voices in the trial and associated hearings have been MS and their surviving competitors. The past MS competitors that have been driven into extinction by the anticompetitive behavior of MS are largely unheard from. When they are heard from their words obviously carry less weight than they would if they came from a source with more business and financial resources. Many of the current competitors have to be careful to speak misleadingly softly so as to not to aggravate MS. After all, they often are, to a major extent, dependent on ongoing business relations with MS. Finally, the ranks of future competitors are, and will continue to be, diminished by the awesome and legally-proven ability of MS to crush competition by means both fair and foul.

I believe that the eventual settlement should focus to a minor extent on protecting the ability of MS to innovate. MS obviously has the resources to look out for itself, even without its near total monopoly in desktop operating systems. Instead, the settlement should focus on protecting the ability of its competitors to innovate, and hence to compete. Remember, if the US government hadn't protected the ability of MS to innovate and compete through its restraint of IBM, MS would certainly not be such a powerful anticompetitive force today. What other successful companies and innovative products might there be in the information technology world today if MS had been similarly restrained over the past 15 or so years? Although we can't redo the past, we can work to protect innovation for all in the future.

Whatever remedies are instituted to protect innovation, if they depend in any respect on the good nature and good will of the "biggest bully on the block" who has repeatedly broken federal law in crushing innovation by competitors, then those remedies are doomed to failure.

If the US refuses to break up MS into 2 or more independent pieces, then the eventual remedies should be designed to coming as close as possible to such an outcome in both law and spirit. Such a settlement would come much closer to being self-governing than the current proposed settlement.

Respectfully, Glenn E Brown
14 January 2002

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